

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
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Nic Anderson, Zoning Clerk
Elsie Tillotson, Department Secretary



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Senior Planner *monie*
Date: January 7, 2014
RE: ZP 14-0631CU 162 ½ Maple Street

Note: These are staff comments only. Decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

File: ZP 14-0631CU
Location: 162 ½ Maple Street
Zone: RH **Ward:** 6
Date application accepted: December 9, 2013



Applicant/ Owner: Ryder Owens, Rae Berolzheimer/Spencer Taylor
Request: Use first floor of rear building (162 ½) as an art studio for owners' use.

Background:

- **ZP 11-0353CA;** Install drywell and regrade and repave existing driveway as needed. **Denied** as incomplete, December, 2010.
- **ZP11-0361CA;** Regrade and repave area of driveway to direct stormwater runoff. (162 ½ Maple) **Denied** due to incompleteness of submission. December 2010.
- **ZP07-290CA;** Replace 4 front windows and 4 rear windows. (162 ½ Maple) Modifications to previously approved permit ZP90-282. Approved October 2006.
- **ZP07-805CA;** Remove metal roof from basement extension and recover with heavy duty rolled roofing. Install a deck over this roof with railings and a privacy screen on west side to match the existing. Approved June, 2007.

- **BZA decision. Conversion of an existing commercial use (auto body shop) into a sculpture studio. Welding to be done outside. Approved August 22, 1990.**
- **ZP90-282; Install 4 new windows in front, five in back. (ZBA approval required for change in commercial use. July 9, 1990.) Approved June 19, 1990.**

Overview: The applicants have applied to use the first floor of they understood to be an existing single family residence as an art studio for their own use. No employees are proposed. The proposed studio will be open on an intermittent basis, mostly on weekends. Clients are expected only a few times a year.

Examination of the zoning record demonstrates **that the entire building was permitted for a sculpture studio in 1990** (see above.) There is no permitted change of use since that time. What is needed for review is the addition of a residential unit (on the upper floor) – changing the use to Attached dwellings – Mixed Use – also a conditional use in the RH zone, as defined in Appendix A.

Recommendation: Consent approval, per the following findings and conditions:

I. Findings

Appendix A, Comprehensive Development Ordinance

Art Gallery/Studio is a Conditional Use in the RH zoning district. Property already permitted as a sculpture studio in 1990. No change required for the requested Art Studio use.

Addition of a residential unit, creating Mixed Use Commercial in RH = Conditional Use.

Article 3: Applications, Permits, and Project Reviews

Part 3: Impact Fees

Section 3.3.2 Applicability

Any new development or additions to existing buildings which result in new dwelling units or in new nonresidential buildings square footage are subject to impact fees as is any change of use which results in an added impact according to Section 3.3.4.

Section 3.3.7 Time and Place of Payment

Impact fees must be paid to the city's chief administrative officer/city treasurer according to the following schedule:

b) Existing buildings: Impact fees must be paid prior to issuance of a zoning permit, or if a building permit is required, within thirty (30) days of issuance of the building permit.

Affirmative finding as conditioned.

Section 3.5.6 Review Criteria

The application and supporting documentation submitted for proposed development involving Conditional Use and/or Major Impact Review, including the plans contained therein, shall indicate how the proposed use and associated development will comply with the review criteria specified below:

(a) Conditional Use Review Standards:

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on the following general standards:

1. The capacity of existing or planned community facilities;

No change anticipated to the capacity of existing or planned community facilities. **Affirmative finding.**

2. The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development plan;

The character of the immediate area includes existing and former commercial sites and more intense residential use. The minor addition of a single residential use is of no import relative to this standard. **Affirmative finding.**

3. Traffic on roads and highways in the vicinity evaluated in terms of increased demand for parking, travel during peak commuter hours, safety, contributing to congestion, as opposed to complementing the flow of traffic and/or parking needs; if not in a commercial district, the impact of customer traffic and deliveries must be evaluated;

The proposal is to change an entirely commercial site (previously a car autobody facility, changed to a sculpture studio) to a mixed use facility. Only one residential unit is proposed. Traffic is anticipated to be less than the previous uses presented. **Affirmative finding.**

4. Any standards or factors set forth in existing City bylaws and city and state ordinances;

All other city ordinances, including the provisions of Functional Family, will apply for the new residential unit. A state wastewater permit is likely required. **Affirmative finding as conditioned.**

5. The utilization of renewable energy resources;

No part of this application precludes the utilization of renewable energy resources. **Affirmative finding.**

and,

In addition to the General Standards specified above, the DRB;

6. shall consider the cumulative impact of the proposed use. For purposes of residential construction, if an area is zoned for housing and a lot can accommodate the density, the cumulative impact of housing shall be considered negligible;

Within the RH zone, housing is anticipated. **Affirmative finding.**

7. in considering a request relating to a greater number of unrelated individuals residing in a dwelling unit within the RL, RL-W, RM and RM-W districts than is allowed as a permitted use, in addition to the criteria set forth in Subsection (a) hereof, no conditional use permit may be granted unless all facilities within the dwelling unit, including bathroom and kitchen facilities are accessible to the occupants without passing through any bedroom. Additionally,

each room proposed to be occupied as a bedroom must contain at least one hundred twenty (120) square feet. There must also be a parking area located on the premises at a location other than the front yard containing a minimum of one hundred eighty (180) square feet for each proposed adult of the dwelling unit in excess of the number of occupants allowed as a permitted use. All other green space standards must be observed.

Residential occupancy limits were revised to include the RH zone (ZA13-01). This standard now applies to this zoning district for new residential units not previously existing prior to adoption of the amendment. **Affirmative finding as conditioned.**

8. may control the location and number of vehicular access points to the property, including the erection of parking barriers.

No change to existing. **Affirmative finding.**

9. may limit the number, location and size of signs.

Any signage will require a separate sign permit. **Affirmative finding as conditioned.**

10. may require suitable mitigation measures, including landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.

No exterior alterations are proposed that may suggest the need for such landscaping or screening. This has been a permitted sculpture/art studio since 1990. **Affirmative finding.**

11. may specify a time limit for construction, alteration or enlargement of a structure to house a conditional use.

No specific construction or alteration is proposed within this conditional use application. **Not applicable.**

12. may specify hours of operation and/or construction to reduce the impact on surrounding properties.

A residential use is not limited to specific hours of operation. No construction is proposed. **Not applicable.**

may require that any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions.

This is a statutory requirement. **Affirmative finding as conditioned.**

14. may consider performance standards, should the proposed use merit such review.

This is at the discretion of the DRB.

15. may attach such additional reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

This, also, is at the discretion of the DRB. No conditions or additional safeguards appear to be deemed necessary for the conversion of a portion of a commercial use to a single residential unit. **Affirmative finding.**

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

(a) Purpose

5. The Residential High Density (RH) district is intended primarily for high density attached multi-family residential development. Development is intended to be intense with high lot coverage, large buildings, and buildings placed close together. Parking is intended to be hidden either behind or underneath structures.

The application is to add a residential use to a previously permitted conditional use (art/sculpture studio.) Parking is available under the building. **Affirmative finding.**

(b) Dimensional Standards & Density

No changes are proposed to the existing structure. Allowable density (Table 4.4.5-1) is 40 units per acre. Lot size $2310 / 43560(\text{acre}) = .053 \times 40 = 2$ residential units possible. The application is requesting one residential unit. **Affirmative finding.**

(c) Permitted & Conditional Uses

The proposed Mixed Use (residential and commercial) requires Conditional Use review. See Article 3, above. **Affirmative finding as conditioned.**

(d) District Specific Regulations:

1. Setbacks

No change proposed. **Not applicable.**

2. Height

No change is proposed; no height bonuses are being sought. **Not applicable.**

3. Lot Coverage

No change is proposed; no lot coverage bonuses are being sought. **Not applicable.**

4. Accessory Residential Structures and Uses

No new accessory structures are sought. **Not applicable.**

5. Residential Density

C. Residential Occupancy Limits (ZA13-01)

The proposed amendment extends the limitation of four unrelated adults living in the same housing unit to all residential districts, including the Residential High-Density (RH) District. Functional Family provisions shall apply to the new unit. **Affirmative finding as conditioned.**

6. Uses

Mixed use (residential/commercial) is a conditional use in the RH zone. See Article 3. **Affirmative finding as conditioned.**

7. Residential Development Bonuses

No development bonuses are being sought. **Not applicable.**

Article 5: Citywide General Regulations

Section 5.5.1 Nuisance Regulations

Nothing in the proposal appears to result in creating a nuisance under this criterion. **Affirmative finding.**

Article 8: Parking

The original ZBA approval did not include any parking requirements for the sculpture studio.

Current CDO requirements (**Table 8.1.8-1, Minimum Off-Street Parking Requirements**) provide the following for the Neighborhood Parking District:

Art Gallery/Studio – 3.3 parking spaces per 1000 sf of gross floor area.

Total gross floor area = 2222 sf. / 1000 = 2.222 x 3.3 parking space requirement = 7 required parking spaces for the existing use (entire building used as art studio.)

Proposed: 1199 sf art studio / 1000 = 1.199 x 3.3 parking requirement = 4 parking spaces required for art studio use. 1 residential unit = 2 parking spaces required.

Total new requirement: 4 (art studio) + 2 (residential unit) = 6 parking spaces.

The required parking is less than the parking requirement for the existing permitted use (7 spaces.) As parking requirement is less, no additional parking is demanded by the change of use. **Affirmative finding.**

II. Conditions of Approval

1. Impact fees as calculated for the change of use as submitted.

SF of
Project 1,023

Department	<u>Residential</u>		<u>Offices & Other</u>	
	Rate	Fee	Rate	Fee
Traffic	0.184	188.23	0.641	655.74
Fire	0.211	215.85	0.188	192.32
Police	0.043	43.99	0.333	340.66
Parks	0.704	720.19	0.397	406.13
Library	0.436	446.03	0.000	0.00
Schools	0.911	931.95	0.000	0.00
Total	2.489	\$ 2,546.24	1.559	\$1,594.85

Difference between Residential and existing use:

\$ 951.39

Time and Place of Payment

Impact fees must be paid to the city's chief administrative officer/city treasurer according to the following schedule:

b) Existing buildings: Impact fees must be **paid prior to issuance of a zoning permit**, or if a building permit is required, within thirty (30) days of issuance of the building permit.

2. Not more than 4 unrelated adults may occupy the residential unit per ZA13-01, and Section 4.4.5 (d) 5. C.
3. Any signage will require a separate sign permit.
4. Any future enlargement or alteration of the mixed use shall return for review to the DRB to permit the specifying of new conditions.
5. Standard Permit Conditions 1-15.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.

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PLANNING



FROM ASSESSOR'S DATABASE



DEC 09 2013

DEPARTMENT OF
PLANNING & ZONING

0 15 30 60 Feet

162 Maple St

Property lines are assumed only and are not considered accurate
Produced by N. Anderson at City of Burlington Planning and Zoning

Ryder Owens & Rae Berolzheimer
20 West Canal St. Apt 200B
Winooski, VT 05404
(802) 380-1566
ryderoart@yahoo.com

December 7, 2013

Department of Planning and Zoning
149 Church Street, City Hall
Burlington, VT 05401-8415

Application for Conditional Use: 162 ½ Maple St. Burlington, VT

Please see the following information to satisfy the checklist for conditional use on the above property:

Description of the proposed use:

First floor is to be used as an art studio by the owners.

Days and hours of operation:

Studio will be used on an intermittent basis, mostly on the weekends, with occasional weekdays possible. Hours of operation will also be intermittent, in general limited to 9am to 5pm.

Number of employees:

There will be no employees.

Traffic generation and parking analysis (daily and peak hour):

There will be no impact on traffic or parking. This is not a production facility. We have no employees and very few deliveries. We anticipate a minimal amount of client visits. The estimated amount would be a few per year.

Floor plans indicating location and floor area of individual uses:

Please see attached appendices A & B.

Phasing schedule:

Not applicable

Information and narrative necessary to address each of the applicable Review

Criteria pursuant to Sec 3.5.6(b):

Not applicable

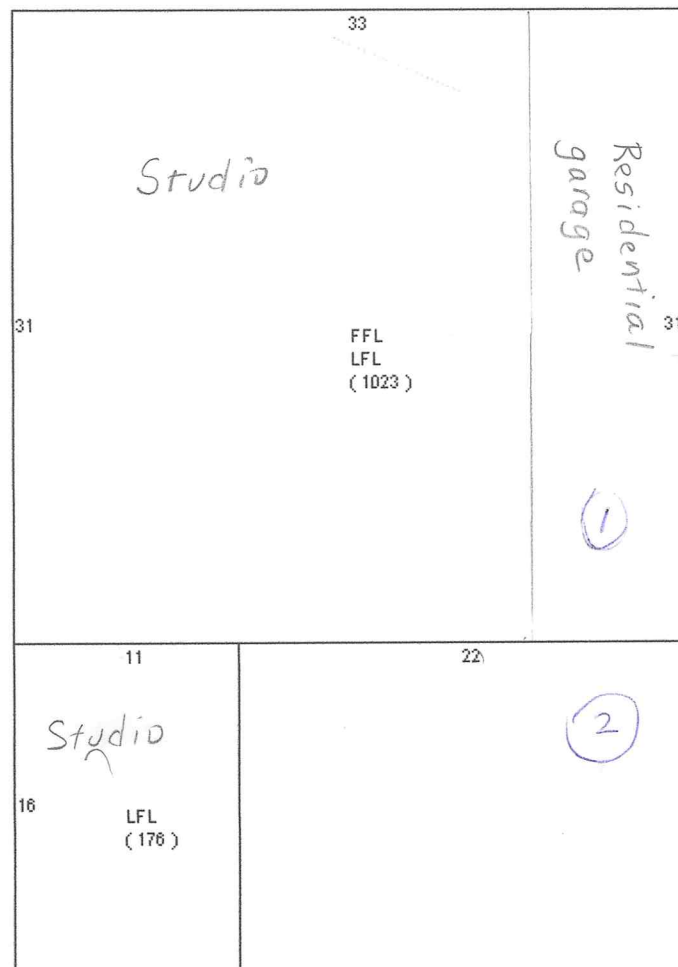
For Major Impact applications under Sec 3.5.2(b):

Not applicable

Other additional information as may be required by the Administrative Officer pursuant to Sec. 3.2.3:

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PLANNING & ZONING

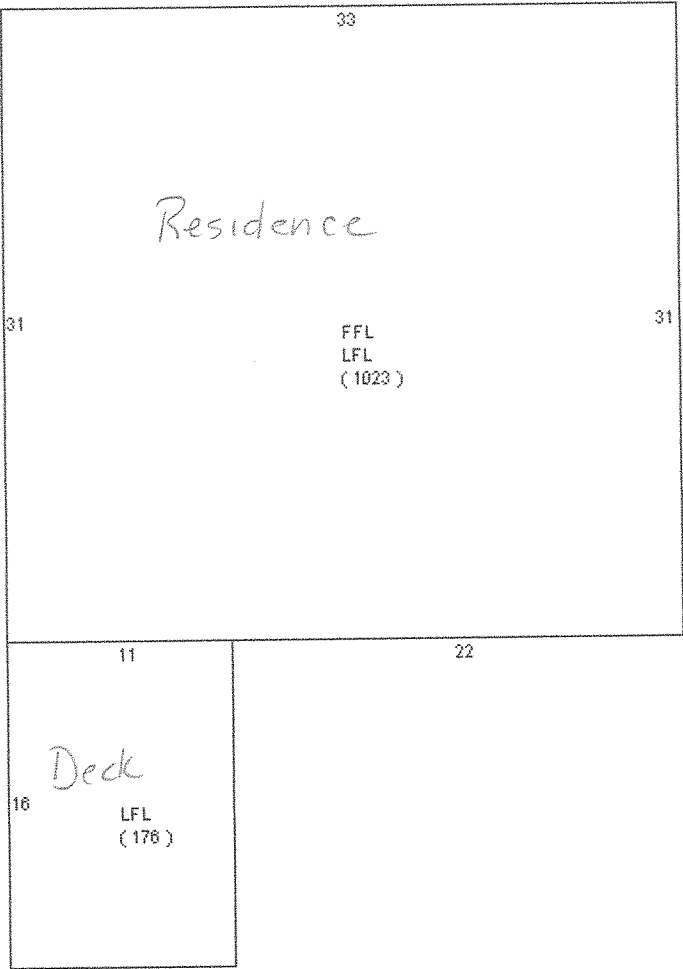
APPENDIX A - floor plan of
lower level

- ① Parking space inside garage
- ② Parking space outside garage

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REQUEST FOR APPEARANCE
BURLINGTON ZONING BOARD OF ADJUSTMENT
ROOM 300 - 135 CHURCH ST.
Burlington, VT 05401
(802) 658-9300 ext. 155

Address of property 162 ¹/₂ MAPLE STREET Zone _____

Applicant <u>WILLIAM B. HEKE</u>	Owner (if different) _____
Address <u>TWO TOWER TERRACE</u>	Address _____
<u>BURLINGTON, VT 05401</u>	_____
Phone <u>658-9328</u>	Phone _____
_____	_____

Reason For Appearance TO CONVERT A FORMER AUTO BODY SHOP INTO A SCULPTURE STUDIO

Applicable section of Zoning Ordinance _____

Signature William B. Heke

Procedures For Requesting A Hearing With The Zoning Board

Bring the items checked below to the Planning Department (Room 300-135 CHURCH ST.) by the application deadline.

- ☒ \$35 fee.
- ☒ Plot Plan. A drawing to scale, showing the dimensions of the lot and the footprints of any buildings, driveway, parking spaces, easements, etc.
- ☒ Photograph(s) of the outside of the property.
- ☐ Photographs of the neighborhood adjacent to the property.
- ☒ A description of the proposed business or home occupation (i.e. portion of home to be used, type of product, number of employees, hours, amount of traffic expected).
- ☐ If requesting a variance, describe the property's unique physical condition and the unnecessary hardships caused. Is it possible to make reasonable use of the property without a variance?
- ☒ Other interior floor plan

Dates And Deadlines

Date of next Zoning Board meeting _____

Application deadline _____

Complete application received _____

Board decision _____

Findings of Fact mailed _____

DESCRIPTION

I am a sculptor who works in found metal and presently works on Pine Street. My plans are to convert the former auto body shop to a sculpture studio. I ship the finished pieces to galleries throughout the U.S.

We will utilize the downstairs space for design and fabrication, enclosing a small fenced in area for working in the summer months.

The upstairs will be used for parking and shipping and as our office space. The major changes will be some windows and a fence that we hope will improve the appearance of the building.

I employ two other people and most of our work is done during daylight hours. We expect minimal traffic with the exception of an occasional delivery truck.

BURLINGTON ZONING BOARD OF ADJUSTMENT
Findings of Fact

IN RE 162 1/2 Maple Street

Public hearing was held July 9, 1990 before Board Chair Mary Gade and members Michael Long, Glenn Jarrett and Austin Hart. At issue was the application by William Heise for conversion of the existing commercial use at 162 1/2 Maple Street in an R-40 zone to use as a sculpture studio according to Section 10 (A)(10) of Appendix A, Burlington Code of Ordinances.

EVIDENCE PRESENTED

Written application material was reviewed and entered into the record. (See file).

Heise explained that a fence will be installed to enclose the paved area. Welding outside will occur on occasion and there will be occasional hammering. The noise generated will be far less than that heard with the auto-body shop that previously occupied the premises. Work during the summer would be with the doors open but Heise does not anticipate a noise problem. He is presently in operation next door to an auto body shop and his operation is much quieter.

FINDINGS AND ORDER

Glenn Jarrett moved to approve the application under Section 10 (A)(10) finding that the proposed use will be no more harmful or detrimental to the residential character of the neighborhood. Michael Long seconded. Vote in favor of the motion was 4-0.

Dated at Burlington, VT this 22nd day of August, 1990.

ZONING BOARD OF ADJUSTMENT

Mary Gade
Mary Gade, Chair

Michael Long
Michael Long

Glenn Jarrett
Glenn Jarrett

Austin D. Hart
Austin Hart

O. Elizabeth Towne, City Zoning Clerk